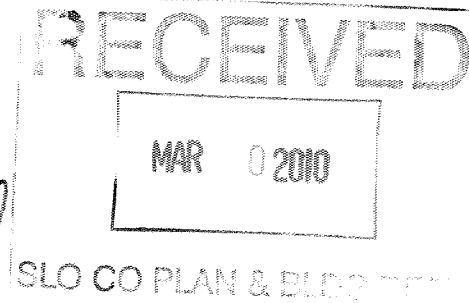


COUNTY OF SAN LUIS OBISPO

Department of Agriculture/Weights and Measures

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DATE: March 29, 2010
TO: Michael Conger and Murry Wilson, Project Managers
FROM: Michael Isensee, County Agriculture Department
RE: Grading Ordinance Update: Certification



The County Agriculture Department appreciates the opportunity to provide additional input regarding outstanding issues associated with the grading ordinance update, specifically the issues relating to "certified grading." The Department supports a third-party certification process which would reduce the regulatory burden for grading activities which can be successfully implemented without the review and oversight of the RCD. To be successful, the Department believes such an approach requires that the County be able to revoke certification if problems arise and also conduct some form of audit or oversight of the program to ensure it functions as intended. Numerous examples of certification programs exist for agriculture. Examples include private applicators certificates for the use of restricted pesticides, farmers' market certificates, and the leafy green marketing agreement.

CERTIFICATION OPTIONS

The Department understands certified grading could take multiple different forms. Depending upon the type of certification chosen, different types of earth moving practices and/or limits to earth movement would be appropriate.

1. Landowner Certified.
 - A. Certification may be based solely on attendance at a class or series of classes. Certified landowners would be those individuals who have taken a County-approved course within a specified recent time period (such as UCCE short courses, rangeland self-certification, etc). Such a self certification would be appropriate for a limited range of earthmoving activities
 - B. Certification may be based upon an existing third-party audited program operated by non-governmental organizations. These organizations substantiate that a grower meets specific standards or is making progress at implementing certain standards. Such programs generally focus on environmental stewardship but may also address other factors. Examples include the Central Coast Vineyard Team's Sustainability in Practice (SIP), California Certified Organic Growers (CCOF), or the upcoming California Sustainable Winegrowing Alliance's certification program.

- The Department would support replacing the current proposed *Agricultural Grading* section with a section which only allows certified landowners to conduct Agricultural Grading (22.52.070.C) practices. Such a change would ensure that prior to conducting these activities the individuals have received some amount of training about sediment management and about the technical resources available to landowners.

2. Certified Specialists.

- A. Certification may be based upon successfully attaining professional erosion control certification. Such programs exist and are operated by non-governmental organizations which substantiate that the individual has the appropriate relevant experience and background. Further, these programs require passage of an exam focused on erosion control, continuing education specific to erosion control, adherence to a code of ethics, and the possible revocation of certification for failure to comply with certification standards. Such programs have become increasingly common because, as described by Morrow in a May 2009 article in Stormwater magazine, "Th[e erosion and sediment control] industry is very complex and multi-disciplinary. To have a good grasp of it, you need a well-rounded education in soils, vegetation, hydrology, chemistry, and engineering. You also need a lot of common sense. It's part engineering and part art form."
- The Department would support allowing people with a professional erosion control certification from a county-approved program to oversee certain grading practices which would otherwise require alternative review. Anyone, including growers or grading contractors, with an appropriate background could become a certified specialist.

ALTERNATIVE REVIEW

Regardless of the type of certification chosen, the Department believes that roads, ponds, reservoirs and dams should receive Resource Conservation district oversight through the Alternative Review Program. Practices associated with these activities need a level of review and oversight to ensure proper engineering and erosion control standards are utilized. If any road development is allowed as part of a certified program, strict standards should be created to ensure such road development is not abused and that erosion control standards are implemented. Other alternative review practices which would require engineering should remain within the alternative review portion of the grading ordinance. This would include, at a minimum, streambank protection measures and waste management systems. NRCS or RCD engineers and staff would also be able to provide technical input on which practices should review technical review and approval.

OTHER ORDINANCE COMMENTS

The following includes some recommended language changes to the proposed ordinance to increase clarity. New proposed language is boldfaced and underlined.

1. Add clarifying language in water pipelines (22.52.070.B.132)
 - 13. **Agricultural water supplies pipelines.** Installation of water pipelines, **wells, or spring boxes solely** to serve agricultural uses. Water **supplies** pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service **and may include the importation of materials solely for installation of the water supply system, but not including any roadwork** which may include the importation of gravel or sand.
2. 22.52.120.A.2.c **Erosion and Sedimentation Control Plans** (ESCP) references “severe erosion hazard” according to the NRCS. Such information was in the original published soil surveys, but the NRCS has stated that this information was the subjective opinion of the authors and is not based upon written criteria. The NRCS considers them obsolete. More appropriate language would reference “Highly Erodible Land” which is an objective criteria developed over 20 years ago called the Universal Soil Loss Equation. This information is still utilized by the NRCS for certain federal farm programs. Even more up to date information is available (the Revised Universal Soil Loss Equation), but this requires site and practice specific application.
3. 22.52.120.B.3 references “low erosion hazard.” Again, the published soil survey texts’ information regarding erosion is obsolete and not defensible in terms of erosion hazard. Instead, the NRCS has a published soils list which ranks soils as “Highly erodible”, “Potentially Highly Erodible,” or “Not Highly Erodible.”
4. Add additional options under violations and penalties (22.52.190.C.7):
 - Funding outreach and public education or professional education programs (22.52.200) as a “cumulative impact” measure.
 - Providing partial funding to assist the erosion control and outreach programs of local Resource Conservation Districts.
5. Add language, possibly in 22.52.070B., noting that activities undertaken under the review and oversight authority of the RCD or NRCS are exempt from the County grading ordinance.

For more information or to discuss further please contact me at 781-5753